

EXHIBIT R

Volume 5

Pages 904 - 1132

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE WILLIAM H. ALSUP

ORACLE AMERICA, INC.,)	
)	
Plaintiff,)	
)	
VS.)	No. C 10-3561 WHA
)	
GOOGLE, INC.,)	
)	
Defendant.)	San Francisco, California
)	April 20, 2012

TRANSCRIPT OF JURY TRIAL PROCEEDINGS

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(Appearances continued on next page)

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Also Present:

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 Oracle Corporate Representative

CATHERINE LACAVERA
 Google Corporate Representative

— — —

1 side?

2 **A.** Andy Rubin, Brian Swetland and Dan Bornstein in person,
3 and a number of people called in.

4 **Q.** Now, to what extent did Mr. Brenner participate in the
5 conversations at that meeting by phone?

6 **A.** Well, he sort of led a large part of the discussion.
7 There were two things that were of concern to him. One was
8 that he was trying to convince Andy Rubin that they should use
9 the Sun implementation of the particular technology. This is
10 now CDC, as opposed to the technology used by Danger. Sun had
11 it's own optimized implementation that Mr. Brenner was trying
12 to convince Andy Rubin to use. That was one.

13 And then the second topic or issue on which he was
14 trying to change Mr. Rubin's mind, was to try and convince him
15 not to use Open Source for licensing to the proposed Google
16 customers.

17 **Q.** Okay. Now, on the first topic, Mr. Brenner's proposal
18 that Google use Sun's optimization of the implementation of the
19 Java technology, did Mr. Rubin -- what, if anything, did Mr.
20 Rubin say in response to that particular proposal?

21 **A.** Well, he said there was two reasons why that could not
22 happen. He said, first of all, that his engineers were fairly
23 well advanced in their own implementation, independent
24 implementation of CDC, number one, and basically it was too
25 far -- they were too far ahead to turn back.

1 And the second reason was that there was --
2 technically speaking, Sun's implementation wouldn't fit their
3 requirements.

4 **Q.** Now, at that time when you were working in licensing for
5 Sun in 2005, at that time did Sun permit companies to do
6 independent implementations of its specifications?

7 **A.** Yes. As had been done by Danger.

8 **Q.** To what extent did Sun impose requirements on those
9 independent implementations of Java technology?

10 **MS. ANDERSON:** Objection. Overbroad, your Honor.

11 **THE COURT:** Overruled. Please answer.

12 **A.** Basically the requirement that Sun stipulated for
13 customers making commercial use of their own independent
14 implementations were the same as for customers that used Sun's
15 source code. That is, number one, they had to achieve
16 compatibility and, number two, they had to have a commercial
17 use license in place specifying royalties.

18 **BY MR. NORTON:**

19 **Q.** Now, after that December meeting, did you continue to have
20 any role in the discussions between Sun and Google concerning
21 Java licensing for Android?

22 **A.** No.

23 **Q.** After December 2005, did you have any other discussions
24 with anyone from Google regarding Android?

25 **A.** Yes. In, I think, April of 2009, I had a discussion where

1 the person from Google wanted to discuss Java Standard Edition.
2 But I brought up the subject of Android, and we discussed that,
3 as well.

4 **Q.** So what was the name of the person whom you spoke to, who
5 worked for Google?

6 **A.** Martin Buccholz.

7 **Q.** And what was the reason that you found yourself speaking
8 to Mr. Buccholz?

9 **A.** Mr. Buccholz had contacted a colleague of mine, indicating
10 that he wanted to discuss with the correct person at Sun the
11 possibility of Google's licensing the source code to Java
12 Standard Edition so that they could get access to a particular
13 type of support. Getting, like, advance notice on security bug
14 fixes.

15 **Q.** Before you actually spoke to Mr. Buccholz, to what -- what
16 did you do, if anything, to prepare for that call?

17 **A.** I met with Vineet Gupta, forwarding the e-mail trail that
18 had been forwarded to me, and met with Vineet Gupta to take his
19 advice.

20 **Q.** And what did you -- what did you decide to do as a result
21 of speaking to Mr. Gupta, with respect to your phone call with
22 Mr. Buccholz?

23 **A.** When I called Mr. Buccholz -- this was a conference call,
24 by the way -- I had a colleague on that line with me, as well,
25 a systems engineer from Sun.

1 I explained that Sun would be very interested in
2 looking into the possibility of doing a source license
3 agreement covering Java SE and providing just the type of
4 support that they were requesting.

5 But I said that there would be something that would
6 have to be fixed, first, which is the fact that regarding
7 Android there was no commercial use license; and, as we
8 understood it, Android was shipping an incompatible version of
9 Java, commercially.

10 Q. What did Mr. Buccholz say in response?

11 A. Said, well, we don't need a commercial use license
12 agreement. The Android group didn't use any Sun Java source
13 code. They just used the Java specifications. Plural,
14 specifications.

15 Q. And are you certain Mr. Buccholz said the Android
16 engineers had used the specifications?

17 A. Yes, because I immediately summarized the wording in an
18 e-mail to Vineet Gupta.

19 MR. NORTON: No further questions.

20 THE COURT: Cross-examination.

21 MS. ANDERSON: Thank you, Your Honor.

22 **CROSS EXAMINATION**

23 BY MS. ANDERSON:

24 Q. It's just good afternoon, Mr. Cizek.

25 A. Good afternoon.

1 Q. I have to check.

2 We met before, once before. I'm Christa Anderson,
3 counsel for Google. Good to see you.

4 You testified earlier that you've been with Sun and
5 then Oracle, now, for about 12 years. Is that right?

6 A. (No audible response.)

7 Q. During all the years you have worked at Sun and now
8 Oracle, you have worked in, basically, the same role, as
9 account manager. True?

10 A. Yes.

11 Q. And as an account manager, you have been involved in,
12 primarily, licensing discussions regarding licensing aspects of
13 the Java platform, true?

14 A. Yes.

15 Q. Among the platforms that you've licensed over the years
16 are Java ME, as we've been calling it, Java SE, and Java EE; is
17 that correct?

18 A. Yes.

19 Q. And Java ME is Java Micro Edition, true?

20 A. (No audible response.)

21 Q. And if you would, for the court reporter --

22 (Reporter interrupts.)

23 A. Oh. I said yes.

24 Q. Java ME is the platform that you seek to license for
25 smaller devices, true?

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_____/s/ Katherine Powell Sullivan

Katherine Powell Sullivan, CSR #5812, RPR, CRR
U.S. Court Reporter

_____/s/ Debra L. Pas

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Friday, April 20, 2012

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